

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

VINCENT LOWE,

Defendant.

ORDER

11-cv-742-bbc
09-cr-18-bbc

On October 27, 2011, defendant Vincent filed a motion for post conviction relief under 28 U.S.C. § 2255, contending that he had been denied due process by this court and that his counsel was constitutionally ineffective. After his motion was denied on February 21, 2012, defendant appealed. His appeal was denied on October 16, 2013, but notification of the denial did not reach the court.

On April 3, 2013, defendant filed a motion under Fed. R. Civ. P. 60(b) to reopen his § 2255. The motion was denied on April 17, 2013 on the misunderstanding that his appeal was still pending. The misunderstanding did not affect the disposition of the motion to reopen. Although the appeal was not pending in fact, the court of appeals had denied

defendant's appeal of his § 2255 motion, so the court had no jurisdiction to consider or reconsider any claims in his original § 2255 motion.

Under 28 U.S.C. § 2255(h), defendant cannot file a second motion unless he obtains certification for filing from a panel of the Court of Appeals for the Seventh Circuit. Until he does so, this court has no jurisdiction to consider any motion he might file.

ORDER

IT IS ORDERED that defendant Vincent Lowe's request for a certificate of appealability is DENIED.

Entered this 25th day of July, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge